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James B. Ball (#007339)
James E. Shively (#011712)
Poli & Ball, P.L.C.
2999 N. 44th Street, Suite 500
Phoenix, Arizona 85018
(602) 840-1400

Attorneys for AmeriCredit Financial Services, Inc.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:

Rene Daudelin and
Stacy Daudelin,

Debtor.

No. 10-36466-EWH

Chapter 13

OBJECTION TO CHAPTER 13 PLAN

AmeriCredit Financial Services, Inc., a party in interest, hereby objects to the Chapter 13 Plan filed December 6, 2010, for the reasons set forth in this memorandum.

1. FACTUAL BACKGROUND

AmeriCredit Financial Services, Inc. is a secured creditor of debtor ("debtor" means Rene Daudelin whether single or plural) on the following personal property:

2007 Hyundai Sonata

VIN # 5NPET46C37H182067

("the collateral"). AmeriCredit Financial Services, Inc. possesses a valid, perfected, first priority lien against the collateral. The lien and the debt which it secures are evidenced

1 by a retail installment contract executed by debtor on August 13, 2010, and a lien filing
2 receipt, copies of which are attached hereto as Exhibits "A" and "B".

3 The unpaid balance of the debt is \$10,674.50 plus accrued and accruing
4 interest, costs and attorneys' fees. The debtor has been in default to AmeriCredit
5 Financial Services, Inc. on this loan since November 2010.

6 Debtor's plan proposes to pay AmeriCredit Financial Services, Inc.
7 \$9,000.00 on its secured loan together with interest thereon at the rate of five percent
8 (5%) per annum and \$90.00 per month in adequate protection payments. AmeriCredit
9 Financial Services, Inc. objects to its treatment under the plan.

10 2. LEGAL ARGUMENT

11 A. Bankruptcy case was filed less than 910 days after purchase 12 of loan.

13 Debtor obtained the loan through AmeriCredit Financial Services, Inc. on
14 August 13, 2010. The bankruptcy case was opened on November 11, 2010. There were
15 less than 910 days from the date of the purchase of the vehicle and the filing of the
16 bankruptcy. Therefore the debtor may not cram down the value of the 2007 Hyundai
17 Sonata. 11 U.S.C. § 1325(a) ("For purposes of paragraph (5), section 506 shall not apply
18 to a claim described in that paragraph if the creditor has a purchase money security
19 interest securing the debt that is the subject claim, the debt was incurred within the 910-
20 day preceding the date of the filing of the petition, and the collateral for that debt
21 consists of a motor vehicle (as defined in section 30102 of title 49) acquired for personal
22 use of the debtor").
23

1 B. Debtor's plan does not propose enough adequate protection
2 payments.

3 Debtor's plan does not propose enough adequate protection payments. By
4 the time AmeriCredit Financial Services, Inc. is scheduled to receive a payment under
5 the plan, it will have gone several months without a payment on the debt. During this
6 time period, the collateral securing the debt to AmeriCredit Financial Services, Inc. will
7 be depreciating. The plan proposed by debtor does not provide for payments to begin
8 immediately that would protect AmeriCredit Financial Services, Inc.'s collateral against
9 depreciation. Collateral of this type depreciates at a fairly rapid rate and it is
10 AmeriCredit Financial Services, Inc.'s position that any such delay is unreasonable and
11 lacking in adequate protection.

12 AmeriCredit Financial Services, Inc. requests adequate protection in the
13 amount of 1% of the value that is the value of the collateral pursuant to 11 U.S.C.
14 1325(a), 1326, and General Order No. 95.

15 **3. CONCLUSION**

16 For the reasons that the Bankruptcy case was filed less than 910 days after
17 purchase of loan; that AmeriCredit Financial Services, Inc. is not adequately protected,
18 AmeriCredit Financial Services, Inc. requests that this Court deny confirmation of
19 debtor's Chapter 13 Plan.

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23 ///

1 DATED this 6th day of January, 2011.

2 Poli & Ball, P.L.C.

3
4 By /s/ James B. Ball
James B. Ball
5 James E. Shively
2999 N. 44th Street, Suite 500
6 Phoenix, Arizona 85018
Attorneys for AmeriCredit Financial
7 Services, Inc.

8 COPIES of the foregoing mailed
this 6th day of January, 2011, to:

9 Rene Daudelin and
10 Stacy Daudelin
967 E. Del Rio
11 Gilbert, AZ 85295
Debtor

12 Brian C. Dault
13 908 W. Chandler Blvd.
Suite D
14 Chandler, AZ 85225
Attorney for debtor

15 Edward J. Maney
16 P.O. Box 10434
Phoenix, AZ 85064
17 Trustee

18 /s/ Karma Holmes

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